REMARKS/ARGUMENTS

These remarks are made in response to the Non-final Office Action of November 22, 2006 (Office Action). As this response is timely filed within the 3-month shortened statutory period, no fee is believed due. Nonetheless, the Examiner is expressly authorized to charge any deficiencies to Deposit Account No. 50-0951.

Claims 1 and 3-11 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,002,055 to Merki, et al. (hereinafter Merki). Claim 2 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Merki.

Additionally, Claim 2 and a portion of the Specification were both rejected owing to an informality noted at page 3 of the Office Action. Applicant has amended Claim 2 and paragraph [0008] of the Specification in order to correct the informality, according to the Examiner's instructions. Applicant has further amended Claim 2 to avoid the objection to the drawings stated at page 2 of the Office Action. Applicant also has amended paragraph [0010] of the Specification to correct a minor misspelling.

Applicant has amended independent Claim 1 to further emphasize certain aspects of the invention. Applicant also has added dependent Claims 31-34 to emphasize certain additional aspects of the invention. The amendments as well as the newly-presented claims, as discussed in the following section, are fully supported throughout the Specification. No new matter has been introduced by the amendments or the newly-presented claims.

Aspects Of The Invention

At this juncture, it may be helpful to review certain aspects of Applicant's invention. One embodiment of the invention, typified by amended Claim 1, is a wearable health monitoring device. The wearable device can include a plurality of sensors configured to monitor health indicators of a wearer of the device. The sensor, moreover, can be configured to wirelessly transmit sensor data. (See, e.g., Specification, paragraph

[0024], lines 7-12; see also paragraph [0025], lines 10-12, and paragraph [0026], lines 5-6.) For example, one or more of the sensors can be configured to wirelessly transmit sensor data by radio frequencies (RF), by sound waves, and/or by infrared signals. (Specification, paragraph [0024], lines 7-12.)

The wearable device also can include one or more sensor interfaces for receiving health indicator data from the plurality of sensors, and one or more one memories for storing the health indicator data. Additionally, the wearable device can include a processor for analyzing the health indicator data. The processor, more particularly, can be configured to dynamically regulate a substance delivery mechanism responsive to the health indicator data.

The wearable device further can include a wireless transmitter connected to the processor. The transmitter can be activated (a) manually by the wearer and/or (b) automatically by the processor detecting health indicator data outside of a predetermined normal range. The wireless transmitter can be configured to detect, when activated, an in-range wireless receiver and, in response to detecting the receiver, uploading to a remote monitoring device via the receiver at least one indicator of the wearer's current medical condition. Moreover, the wireless transmitter can be configured to receive the sensor data wirelessly transmitted by the plurality of sensors. (See, e.g., Specification, paragraph [0024], lines 7-12; see also paragraph [0025], lines 10-12, and paragraph [0026], lines 5-6.)

The wearable device also can include a viewing screen connected to the processor. The screen display can be activated (a) manually by the wearer and/or (b) automatically by the processor detecting health indicator data outside of a predetermined normal range. The screen can be configured to display visually, when activated, at least one indicator of the wearer's current medical condition.

According to another embodiment of the invention, a wearable device includes a wireless transmitter that is configured to wirelessly transmit health indicator data to a

remotely located healthcare provider. (See, e.g., Specification, paragraphs [0039]-[0040].) More generally, the wireless transmitter can comprise a cellular communications unit for conveying a telephone call, an electronic page, and/or a test message. (See, e.g., Specification, paragraph [0052].) According to still another embodiment, the wireless transmitter can comprise a transceiver configured to receive instructions from the remotely located healthcare provider, the received instructions being executable by the processor. (See, e.g., Specification, paragraphs [0040]-[0041] and paragraphs [0057]-[0061].)

According to yet another embodiment, a wearable device can include a wireless transmitter configured to wirelessly transmit one of a plurality of pre-recorded messages. (See, e.g., Specification, paragraph [0038], lines 13-18.) The message can be generated in response to detecting a predetermined bodily condition in the wearer based upon a comparison, performed by the processor, of health indicator data to a patient profile of the wearer stored in said at least one memory, can be transmitted to the wearer and/or a remotely-located healthcare provider. (See, e.g., Specification, paragraph [0030], lines 2-13; see also paragraph [0013], lines 1-2.)

The Claims Define Over The Cited Reference

Claims 1-11

As already noted, Claims 1-11 were rejected as being anticipated by the newly-cited reference, Merki. Merki is directed to an apparatus that utilizes "biofeedback control" for monitoring certain biological activity in a patient and for administering medication to the patient. (Col. 1, lines 29-44.)

Merki, however, fails to expressly or inherently teach every feature recited in Claim 1, as amended. For example, Merki fails to teach a wearable device that includes a

wireless transmitter. Merki, indeed, discloses the user of a "transfer interface," but Merki's transfer interface most certainly is not a wireless transmitter. Nowhere, does Merki even allude to wireless communications. The word "wireless" nowhere appears in the reference. Indeed, not a single mention is made anywhere in the reference of a "transmitter" or a "transceiver."

Instead, Merki explicitly describes the transfer interface as being a *data* transfer interface. The ordinary meaning of the phrase data transfer interface – and nothing in Merki even suggests that a contrary meaning is intended – is a hardware or software link that connects two computer systems, or a computer and its peripherals. That Merki intends this ordinary meaning is underscored by the language used to describe the interface:

> Microcomputer 9 has a keyboard 11 and is connected to an alphanumeric and/or graphic display 12 and an alphanumeric and/or graphic printer 13. The microprocessor 9 is also provided with a data transfer interface 14 for connection to an external computer, and controls an optical and/or acoustic alarm 15. (Col. 2, lines 1-6.) (Emphasis supplied.)

The explicit language obviates any suggestion that Merki's data transfer interface is a wireless transmitter.

Moreover, Merki does not teach, either explicitly or inherently, a plurality of sensors that *wirelessly* transmit sensor data, as recited in amended Claim 1. FIG. 1 of Merki clearly shows each of Merki's sensors has a wired connection through respective amplifiers, a multiplexer, and an analog/digital (AD) converter to a microcomputer. Nowhere does Merki show a sensor that wirelessly transmits data or that is even connected to a wireless transmitter; as already noted, Merki does not even once mention a transmitter or wireless signaling.

Accordingly, Merki fails to expressly or inherently teach every feature recited in Claim 1, as amended. Applicant respectfully submits, therefore, that Claim 1 defines over the prior art. Applicant further respectfully submits that whereas each of the other claims depends from Claim 1 while reciting additional features, the dependent claims likewise define over the prior art.

Newly-Presented Claims 31 and 32

Because Merki fails to teach sensors having a wireless transmitting capability, it follows that Merki does not teach wirelessly transmitting sensor data in any of the forms recited in Claim 31. Specifically, Merki nowhere teaches transmitting sensor data as radio frequency (RF) signals, as sound waves, or as infrared signals. It further follows that Merki does not teach a wireless transmitter configured to wirelessly transmit health indicator data to a remotely located healthcare provider, as recited in Claim 32.

Newly-Presented Claim 33

Merki also fails to teach or suggest a system or device that includes a wireless transceiver configured to receive instructions from a remotely located healthcare provider, as recited in Claim 33. Indeed, Applicant respectfully notes that Merki describes only conventional keyboard entry of data by a physician:

> The apparatus according to the invention functions as follows. The ideal values or ranges of preselected body functions of the patient measured by sensors 1, 2, 3 at preselected time intervals are stored in memory 10 or in another memory of microcomputer 9 and are optionally converted mathematically, e.g., for determining standard deviation values, median

values or the like. The measured values are compared with predetermined reference values stored in memory 10 or with external reference values fed in by the doctor by means of keyboard 11 and are interpreted in accordance with a diagnosis program stored in microcomputer 9. (Col. 2, line 60 – Col. 3, line 3.) (Emphasis supplied.)

Newly-Presented Claim 34

In failing to teach any type of wireless communication device, Merki fails to teach or suggest a cellular communications device, as recited in Claim 34. Specifically, Merki nowhere teaches or suggests a wearable device that includes a cellular communications unit for conveying at least one of a telephone call, an electronic page, or a text message.

Newly-Presented Claim 35

Lastly, Merki nowhere even alludes to a mechanism for presenting pre-recorded messages, as recited in Claim 35. None of the elements described in Merki – not the sensors, amplifiers, multiplexer, A/D converter, microprocessor, or keyboard – function to provide pre-recorded messages. It follows that Merki does not teach or suggest a wearable device capable of providing one of a plurality of pre-recorded messages in response to detecting a predetermined bodily condition in the wearer based upon a comparison of health indicator data and a patient profile of the wearer.

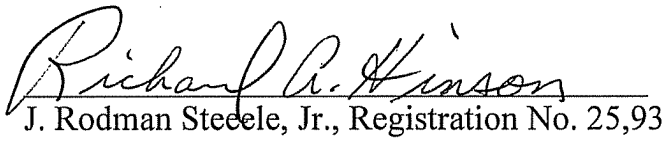
CONCLUSION

Applicant believes that, in view of the claim amendments presented herein, this application is now in full condition for allowance, which action is respectfully requested. Applicant respectfully requests that the Examiner call the undersigned if clarification is

needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

Date: February 22, 2007



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